



Paper No. 6

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OFFICE OF PETITIONS

In re
Shima et al.
Reissue Application No. 09/925,887
Filed: August 3, 2001
Reissue of Patent No. 5,931,011
Original Issue Date: August 3, 1999
Attorney Docket No. 100816-00012

DECISION ON PETITION

This is a decision on the "PETITION TO ACCEPT DRAWING FIGURES ERRONEOUSLY OMITTED UNDER 37 CFR § 1.182," filed December 8, 2003, and supplemented September 21, 2004. The petition requests (a) inclusion of inadvertently omitted unamended drawings from the original patent in the above-identified reissue application and (b) retention of the original filing date of August 3, 2001 for this reissue application. The petition is properly construed as a petition requesting waiver of the requirement of 37 CFR 1.173(a)(2) that the reissue application be filed with a clean copy of each drawing sheet of the printed patent.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On August 3, 2001, the application was deposited as an application for reissue of U.S. Patent No. 5,931,011. The application included a Request for Transfer of the Original Drawings.
2. On December 8, 2003, the present petition (and fee) were filed. Therein, applicants acknowledged that the reissue application as filed on August 3, 2001 did not include the drawings. The petition included copies of the drawings from the original patent.
3. In the December 8, 2003 submission, petitioner asserts that the original of the petition was filed on August 15, 2001. The copy of the petition which is included with the December 8, 2003 submission does not contain a signature, but rather is stamped, in the signature block - "SIGNATURE ON ORIGINAL."
4. On February 4, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Reissue Application, notifying applicants that the application papers had been accorded a filing date; however, the reissue specification has not been provided in the form of a copy of the printed patent. 37 CFR 1.173(a)(1).
5. On September 20, 2004, petitioner was telephoned by Senior Petitions Attorney Nancy Johnson, and it was requested that petitioner submit a signed copy of the petition. Petitioner did so on September 21, 2004.

DECISION ON PETITION TO ACCORD FILING DATE
AND ACCEPT PAPERS AS COMPLETE APPLICATION

Petitioner acknowledges that the instant reissue application as filed on August 3, 2001 did not include drawings. Petitioner states that the (omitted) drawings which are now associated with the reissue application are unamended from, and identical to, the drawings associated with the original patent. In effect, petitioner requests that the Office excuse the inadvertent omission of the drawings on filing and accord the application a filing date of August 3, 2001.

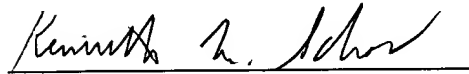
Since this is a reissue application, the contents of the application are set by rule. The reissue application must include "a clean copy of each drawing sheet of the printed patent at the time the reissue application is filed" (37 CFR 1.173). As such, there is no question as to the drawings intended to be filed in this case. Under these circumstances, the delay in supplying the drawings is excused.

As to the timing of petitioner's submission of the drawings, such drawings were submitted on December 8, 2003. Accordingly, the February 4, 2004, OIPE Notice to File Missing Parts of Reissue Application was effectively timely "responded" to before the Notice was issued. Such response was incomplete as to the failure to include a signed petition; however, the response has now been completed by the supplement to the petition filed September 21, 2004.

In view of the above, this application is accepted as a complete application and accorded a filing date of August 3, 2001.

CONCLUSION

1. The petition is GRANTED.
2. The application is being returned to the Office of Initial Patent Examination for further processing as a reissue application with a filing date of August 3, 2001, using the papers deposited on that date and the fourteen (14) sheets of drawings supplied December 8, 2003
3. Receipt of the response to the Notice to File Missing Parts of Reissue Application filed April 15, 2004 is acknowledged.
4. Telephone inquiries related to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.
5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (703) 305-9282.



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